

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TENNESSEE
3 KNOXVILLE DIVISION

5 NATHAN LING, :
6 Plaintiff, :
7 v. : 3:20-CV-233
8 CAMPBELL COUNTY, TENNESSEE, :
9 Defendant. :

12 BEFORE: THE HONORABLE CHARLES E. ATCHLEY, JR.
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE PLAINTIFF:

16 ANTHONY A. SEATON
THOMAS J. SMITH
GARZA LAW FIRM
17 118 East Watauga Avenue
Johnson City, Tennessee 37601

FOR THE DEFENDANT:

20 ARTHUR F. KNIGHT, III
TAYLOR & KNIGHT
800 South Gay Street
21 Suite 600
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23 JURY TRIAL
24 THIRD DAY OF TRIAL
25 EXCERPT OF PROCEEDINGS
26 CHARGE CONFERENCE

1 THE COURT: All right. So, gentlemen, are we
2 ready to go into our charge conference and get our jury
3 instructions ready?

4 MR. SEATON: I wouldn't see why not.

5 MR. KNIGHT: That's fine with me, Your Honor.

6 THE COURT: Okay. Well, let's go ahead and
7 start that. We've made some stylistic -- a couple of
8 stylistic changes, but we haven't really changed
9 anything substantive from what the parties have
10 submitted. We did correct a couple of grammatical
11 errors and some issues like that and -- and format it.

12 But let's run through what we have and -- and
13 proceed. You'll have your copy there in front of you,
14 and we'll just go through -- I'll go through it line by
15 line and ask you if there's an objection to each
16 instruction, and we'll go from there.

17 And we'll do the verdict form last. Okay?

18 All right. So page 1, Court has the style of
19 the case, charge to the jury. This is our basic opening
20 charge to the jury called "Members of the Jury."

21 Mr. Seaton, do you have any objection to that
22 charge?

23 MR. SEATON: No, Your Honor.

24 THE COURT: Okay. Mr. Knight?

25 MR. KNIGHT: No, Your Honor.

1 THE COURT: Okay. Page 2 -- beginning on
2 page 2, jurors' duties. This is Sixth Circuit pattern
3 jury instruction for jurors' duties.

4 MR. KNIGHT: No objection from the defendant,
5 Your Honor.

6 MR. SEATON: None from us, Your Honor.

7 THE COURT: All right. Page 3, preponderance
8 of the evidence. This is Third Circuit model civil jury
9 instruction, preliminary instructions, preponderance of
10 the evidence. I believe this is what was submitted.

11 MR. KNIGHT: No objection, Your Honor.

12 MR. SEATON: No objection.

13 THE COURT: All right. Page 5, evidence
14 defined. Again, this comes from the Sixth Circuit
15 pattern.

16 MR. KNIGHT: No -- no objection.

17 MR. SEATON: No objection.

18 THE COURT: Page 7, consideration of evidence.
19 This is also Sixth Circuit pattern.

20 MR. SEATON: No objection.

21 MR. KNIGHT: No objection, Your Honor.

22 THE COURT: Page 8, stipulations.

23 MR. SEATON: No objection.

24 MR. KNIGHT: No -- no objection, Your Honor.

25 I'm sorry.

1 THE COURT: Direct and circumstantial evidence.

2 MR. SEATON: No objection.

3 MR. KNIGHT: No objection, Your Honor.

4 THE COURT: Credibility of witnesses. This is
5 also Sixth Circuit pattern.

6 MR. KNIGHT: No objection, Your Honor.

7 MR. SEATON: No objection.

8 THE COURT: Page 13, use of deposition taken
9 from Third Circuit model civil jury instructions.

10 MR. KNIGHT: No objection, Your Honor.

11 MR. SEATON: No objection.

12 THE COURT: Page 14 taken from the Sixth
13 Circuit pattern, opinion testimony. This, of course,
14 is -- when read to the jury will include the names of
15 everyone that testified as -- as an opinion witness. I
16 believe we had five that fell into that category.

17 Well, I'll tell you what, Mr. Seaton, what are
18 our names?

19 MR. SEATON: Galloway, Bohm, Whatley, Greg
20 Winston.

21 MR. KNIGHT: Abel and --

22 MR. SEATON: Well, no, those -- those were
23 doctors, Abel and Startup.

24 THE COURT: Well, that --

25 MR. SEATON: Is that included?

1 THE COURT: That's why they're here. They're
2 experts.

3 MR. SEATON: Well, they're medical -- yeah.

4 That's a -- that's a big argument. But anyway, the two
5 medical experts are Startup and Abel.

6 THE COURT: And then the others are?

7 MR. SEATON: That was it. Galloway, Bohm,
8 Whatley, and Winston.

9 THE COURT: Okay. So we have a total of six?

10 MR. SEATON: Six.

11 MR. SMITH: Six.

12 THE COURT: Mr. Knight, do you agree with that?

13 MR. KNIGHT: Yes, Your Honor.

14 THE COURT: Okay. So their names will be
15 included in this blank portion in the first paragraph of
16 this opinion testimony, and -- and then they'll also be
17 included in the second.

18 All right. Charts and summaries in evidence.

19 MR. SEATON: No objection.

20 MR. KNIGHT: No objection, Your Honor.

21 THE COURT: Lawyers' objections. This is Sixth
22 Circuit pattern.

23 MR. KNIGHT: No objection, Your Honor.

24 MR. SEATON: No objection.

25 THE COURT: Definition of the claims at issue.

1 MR. SEATON: No objection.

2 MR. KNIGHT: No objection, Your Honor.

3 THE COURT: Introduction.

4 MR. SEATON: No objection.

5 MR. KNIGHT: No objection, Your Honor.

6 THE COURT: Title 42 United States Code 1983
7 general instruction. This is taken from parties'
8 proposed instructions.

9 MR. SEATON: No objection.

10 MR. KNIGHT: No objection, Your Honor.

11 THE COURT: Title 42 United States Code 1983
12 municipal liability. This is also taken from the
13 parties' proposed jury instructions.

14 MR. SEATON: No objection.

15 MR. KNIGHT: Obviously, no objection, Your
16 Honor.

17 THE COURT: Well, I've learned that not
18 everything is obvious. Nothing is obvious.

19 Title 42 United States Code 1983, failure to
20 train or intervening to protect detainees from abuse by
21 fellow officers. Also taken from parties' proposed.

22 MR. SEATON: No objection.

23 MR. KNIGHT: No objection, Your Honor.

24 THE COURT: All right. Title 42 United States
25 Code Section 1983, failure to train to provide medical

1 care and address medical emergencies. Parties'
2 proposed.

3 MR. SEATON: No objection.

4 MR. KNIGHT: No -- no objection, Your Honor.

5 THE COURT: Page 24, damages.

6 MR. SEATON: No objection.

7 THE COURT: This is also taken from parties'
8 proposed.

9 MR. KNIGHT: I don't have any objections, Your
10 Honor.

11 THE COURT: All right. Deliberations and
12 verdict on page 27. This is taken from Sixth Circuit
13 pattern.

14 MR. SEATON: No objection.

15 MR. KNIGHT: No -- no objections, Your Honor.

16 THE COURT: Page 28, experiments, research,
17 investigation, and outside communications. Also taken
18 from Sixth Circuit pattern.

19 MR. KNIGHT: Right, Your Honor. No objection.

20 MR. SEATON: No objection.

21 THE COURT: Page 30, duty to deliberate,
22 unanimous verdict. Also taken from Sixth Circuit
23 pattern.

24 MR. SEATON: No objection.

25 MR. KNIGHT: No -- no objection, Your Honor.

1 THE COURT: Page 31, jurors' notes.

2 MR. SEATON: No objection.

3 MR. KNIGHT: None, Your Honor.

4 THE COURT: Page 32, Court has no opinion.

5 MR. KNIGHT: No objection, Your Honor.

6 MR. SEATON: No objection.

7 THE COURT: Return of verdict.

8 MR. SEATON: No objection.

9 MR. KNIGHT: No objection, Your Honor.

10 THE COURT: All right. Okay. And then we have
11 our verdict form. This is taken from parties' proposed
12 verdict form. So I think we -- we -- when a question
13 came up earlier in the trial about some of the language,
14 I think we added a little bit of additional language.

15 So it has the style of the case. It says
16 "Verdict Form."

17 "We, the jury, unanimously answer the questions
18 submitted by the Court as follows:

19 "Question 1, do you find that plaintiff, Nathan
20 Ling, has proven by a preponderance of the evidence the
21 elements of his" -- and I'm going to insert "42 United
22 States Code" -- "Section 1983 claim of liability against
23 defendant, Campbell County, Tennessee, based on the
24 failure to train its staff to intervene to protect jail
25 detainees from abuse by any other staff?"

1 And a place for them to check "yes" or a place
2 for them to check "no."

3 And then it states, "If you answered yes,
4 proceed to question 2. If you answered no, proceed to
5 question 3."

6 And then, of course, with a "yes" answer to 2,
7 the sum of money, "What sum of money would fairly and
8 reasonably compensate plaintiff, Nathan Ling, for his
9 damages, if any, caused by the failure to train?"

10 And then there's a blank spot for them to place
11 an award.

12 "Question 3, do you find that plaintiff, Nathan
13 Ling, has proven by a preponderance of the evidence the
14 elements of his" -- and, again, I'm going to insert the
15 "42 United States Code" in there in front of the
16 "Section 1983 claim of liability against defendant,
17 Campbell County, Tennessee, based on the failure to
18 train its staff to provide needed medical care for
19 jailed detainees?"

20 And a place to mark "yes" and a place to mark
21 "no."

22 And then it says, "If you answered yes to
23 question 4" -- "If you answered yes, proceed to
24 question 4. If no, the jury foreperson must sign their
25 name at the end of the form and then return the form to

1 the bailiff."

2 And then, "Question 4, what sum of money would
3 fairly and reasonably compensate plaintiff, Nathan Ling,
4 for his damages, if any, caused by the failure to
5 train" -- and I think we had proposed adding a little
6 bit of language to this.

7 Is that correct, Ronnie?

8 MR. THOMPSON: That's correct, Judge.

9 (Court confers with law clerk.)

10 THE COURT: So on -- in addition to the
11 "42 United States Code" at the end of paragraph 2, it
12 would say "caused by the failure to train on when to
13 intervene."

14 MR. SEATON: I -- I agree, yeah.

15 THE COURT: It would clarify that.

16 MR. SEATON: Yeah, sure would.

17 THE COURT: And then at the end of paragraph 4,
18 it would state -- where it says -- currently says
19 "caused by failure to train," it would say "on the need
20 to provide medical care for jail detainees."

21 MR. SEATON: Yes, sir.

22 THE COURT: All right.

23 MR. KNIGHT: I agree with that, Your Honor.

24 THE COURT: Gentlemen, are there any issues
25 with the Court's proposed verdict form?

1 MR. SEATON: No, sir.

2 MR. KNIGHT: No, Your Honor.

3 THE COURT: Okay. Good.

4 Well, I think we have our jury instructions.

5 END OF PROCEEDINGS

6

7 I, Stephanie Fernandez, do
8 hereby certify that I reported in machine shorthand the
proceedings in the above-styled cause, and that this
transcript is an accurate record of said proceedings.
9

10 s/Stephanie Fernandez
Stephanie Fernandez,
Official Court Reporter
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